

Practitioner's Docket No. 3144.01A

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Philip T. Davis, Janet M. McCune, Hugh Forcier

Application No.: 09 / 328,856

Group No. 2761

Filed: June 9, 1999

Examiner:

For: Method and system for providing insurance protection against loss of retirement accumulations in a tax favored defined contribution plan in the event of a participant's disability
Assistant Commissioner for Patents
Washington, D.C. 20231

**PETITION TO ESTABLISH PRIOR RECEIPT IN THE P.T.O.
OF ITEM(S) CONSIDERED AS OMITTED BY THE P.T.O.
— RESPONSE TO "NOTICE OF OMITTED ITEMS"**

WARNING: This submission must be "within two months of the date of the 'Notice of Omitted Items' (37 C.F.R. 1.181(f))." Notice of June 5, 1996, 61 Fed. Reg. 30,041, 30,041 (Jun. 5, 1996).

1. This is in response to the "NOTICE OF OMITTED ITEMS" mailed for this application on July 2, 1999

☒ A copy of the "NOTICE OF OMITTED ITEMS" is enclosed.

2. Applicant asserts that the items indicated as omitted were in fact deposited with the P.T.O. with the original application papers filed on June 9, 1999

3. In accordance with the requirements of the Notice of June 5, 1996, 61 Fed. Reg. 30,041-30,046, applicant hereby:

- A. Petitions under 37 C.F.R. 1.53(e) for a review of the determination that the items in issue were omitted;
- B. Submits the petition fee under 37 C.F.R. 1.17(i) (37 C.F.R. 1.17(q)); and
- C. Submits the attached evidence of the deposit of the items in issue.

CERTIFICATION UNDER 37 C.F.R. 1.10*
(Express Mail label number is mandatory.)
(Express Mail certification is optional.)

I hereby certify that this correspondence and the documents referred to as attached therein are being deposited with the United States Postal Service on this date August 16, 2000, in an envelope as "Express Mail Post Office to Addressee," mailing Label Number EH651173528US, addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

08/23/2000 EHAMMOND 00000001 09328856

05 FC:122

130.00 OP

Audrey A. Millemann

(type or print name of person mailing paper)



Signature of person mailing paper

WARNING: Certificate of mailing (first class) or facsimile transmission procedures of 37 C.F.R. 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

***WARNING:** Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. 1.10(b).

"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

(Petition to Establish Prior Receipt in the PTO of Item(s) Considered as Omitted by the PTO — Response to "Notice of Omitted Items" [5-11]—page 1 of 3)

4. Fee Payment

A. ☒ This is a nonprovisional application.

The petition fee, 37 C.F.R. 1.17(i), is paid as follows:

- ☒ a check is attached in the sum of \$ 130.00
☐ charge Account _____ the sum of \$ 130.00

A duplicate of this petition is attached.

Please charge Account 501176 for any fee deficiency for this petition.

B. ☐ This is a provisional application.

The petition fee, 37 C.F.R. 1.17(q), is paid as follows:

- ☐ a check is attached in the sum of \$ 50.00
☐ charge Account _____ the sum of \$ 50.00

A duplicate of this petition is attached.

Please charge Account _____ for any fee deficiency for this petition.

5. Request for Refund

It is respectfully requested that, upon grant of the petition under 37 C.F.R. 1.53(e), the petition fee be refunded by:

- ☐ deposit to Account _____
☒ payment of refund by check. —

6. Provisional Request for Filing Date As of This Date of Submission of Omitted Items in Issue — Provisional Petition under 37 C.F.R. 1.182.

NOTE: "An applicant desiring to submit the omitted page(s) in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted page(s) with an oath or declaration in compliance with 37 C.F.R. 1.63 and 1.64 referring to such page(s) and a petition under 37 C.F.R. 1.182 (with the petition fee under 37 C.F.R. 1.17(h)) requesting the later filing date within two months of the date of the 'Notice of Omitted Items' (37 C.F.R. 1.181(f))." Notice of Jun. 5, 1996, 61 Fed. Reg. 30,041, 30,041.

NOTE: ". . . in view of the relatively low filing fee for provisional applications, and the PTO's desire to minimize the processing of provisional applications, the PTO will not grant petitions under 37 C.F.R. 1.182 to accept omitted page(s) or drawing(s) and accord an application filing date as of the date of such submission. Instead, the applicant should simply refile the complete provisional application." Notice of Jun. 5, 1996, 61 Fed. Reg. 30,041-30,046, at 30,044.

(Petition to Establish Prior Receipt in the PTO of Item(s) Considered as Omitted by the PTO — Response to "Notice of Omitted Items" [5-11]—page 2 of 3)

RECEIVED

AUG 25 2000

OFFICE OF PETITIONS

In the event that the Petition to Establish Prior Receipt in the P.T.O. of Omitted Items in Issue does not result in a decision by the P.T.O. that the omitted items in issue were indeed received by the P.T.O. on the original filing date for this application, applicant hereby:

- (a) submits the omitted item(s) listed on the "NOTICE OF OMITTED ITEMS";
- (b) submits a declaration in compliance with 37 C.F.R. 1.63 and 1.64 referring to such omitted item(s);
- (c) petitions under 37 C.F.R. 1.182 to accept the date of this submission as the application filing date; and
- (d) submits the petition fee under 37 C.F.R. 1.17(h).

7. Petition Fee for Provisional Petition under 37 C.F.R. 1.182

The fee under 37 C.F.R. 1.17(h) is paid as follows:

- ☐ a check is attached in the sum of \$ 130.00
- ☐ charge Account _____ the sum of \$ 130.00

A duplicate of this petition is attached.

Please charge Account _____ for any fee deficiency for this petition.

8. Request for Refund of Petition Fee under 37 C.F.R. 1.182

Upon grant of the petition under 37 C.F.R. 1.53(e) and the determination by the P.T.O. that the omitted pages in issue were filed with the original papers filed for this application, applicant respectfully requests that the petition-fee under 37 C.F.R. 1.182 be refunded by:

- ☐ deposit to Account _____
- ☐ payment of refund by check.


Signature of practitioner

Date: August 16, 2000

Audrey A. Millemann

(type or print name of practitioner)

Reg. No.: 44,942

WEINTRAUB GENSHLEA CHEDIAK SPROUL
400 Capitol Mall, 11th Floor

P.O. Address

Customer No.:

Sacramento, CA 95814

- ☒ Plus EVIDENCE OF DEPOSIT OF ITEM(S) WITH APPLICATION INDICATED AS OMITTED IN THE "NOTICE OF OMITTED ITEMS".

Practitioner's Docket No. 3144.01A

**EVIDENCE OF DEPOSIT OF ITEM(S)
WITH APPLICATION INDICATED AS OMITTED
IN THE "NOTICE OF OMITTED ITEMS"**

In connection with the "Notice of Omitted Items" dated 07/02/99 applicant submits the following evidence that the item(s) indicated as omitted were in fact deposited with the P.T.O. on 06/09/99, which is the original date on which the papers for this application were deposited:

- ☒ a photocopy of the return post card showing thereon that the item(s) indicated as omitted were in fact deposited.
- ☐ other:

Express Mail No. EH651173528US

The United States Patent and Trademark Office mail room stamp hereon acknowledges receipt of the following items on the date shown, and indicates the filing date and serial number thereof.

File No. - 3144.01A
Date Sent - 6/9/99

Inventors - Philip T. Davis, Janet M. McCune, Hugh Forcier
Title - METHOD AND SYSTEM FOR PROVIDING INSURANCE PROTECTION AGAINST LOSS
OF RETIREMENT ACCUMULATIONS IN A TAX FAVORED DEFINED CONTRIBUTION PLAN
IN THE EVENT OF A PARTICIPANT'S DISABILITY

New Application Transmittal (Cover letter) - 11 pg.
Patent Application
Specification - 36 pg.
Claims - 7 pg.
Abstract - 1 pg.
Drawings - 6 pg.

Express Mail No. - EJ385046715US

jc530 U.S. PTO
09/328856

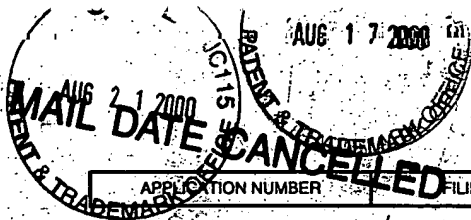


THE UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 24 1999

WEINTRAUB GENSHLEA
& SPROUL

Express Mail No. EH651173528US



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
09/328,856	06/09/99	DAVIS	F 3144.01A

020940 0242/0702

JOSEPH E GERBER NOT ASSIGNED

GERBER RITCHEY & O'BANION

400 CAPITOL MALL SUITE 1550

SACRAMENTO CA 95814

2761

DATE MAILED: 07/02/99

**NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION
FILED UNDER 37 CFR 1.53(b)**

A filing date has been assigned to the above-identified application papers; however, the following item(s) appear to have been omitted from the application:

- ☐ 1. Pages _____ of the specification (description and claims).
☒ 2. Figures 4 described in the specification.
☐ 3. Other: _____

I. Should applicant contend that the above-noted item(s) was in fact deposited in the Patent and Trademark Office (PTO) with the application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(i))), which will be refunded if it is determined that the item was in fact received by the PTO with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) were filed in the PTO as the filing date of the above-identified application, a copy of this Notice, the omitted items (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181 (f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the PTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136 (a) or (b).** In the absence of a timely petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the PTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the PTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option III), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

Direct the reply and any questions about this notice to "Attention: Box Missing Parts."

Enclosed:

☒ "Notice to File Missing Parts of Application," Form PTO-1533.

☐ Other: _____

A copy of this notice MUST be returned with the reply.

Elisha Evans

Customer Service Center
Initial Patent Examination Division (703) 308-1202

Express Mail No. EH651173528US

PART 2-COPY TO BE RETURNED WITH RESPONSE